

# EXHIBIT 53

## to Verified Complaint

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Kalispell, MT 59903



Debbie Pierson, Flathead County MT by SM

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City of Kalispell  
P. O. Box 1997  
Kalispell, Montana 59903-1997

#### GRANT OF CONDITIONAL USE

APPLICANT: Fortify Holdings, LLC  
732 NW 19th Ave  
Portland, OR 97209

LEGAL DESCRIPTION: Lot 2 of the Amended Plat of Lots 1 and 2 of the Amended Plat of Lots 1-10, Block 2, Ryker Addition to Kalispell and Lot 3 of the Amended Plat of Lots 1-10, Block 2, Ryker Addition to Kalispell, excepting therefrom that portion deeded to the Montana Department of Transportation in Bargain and Sale Deed recorded December 11, 2000, as Instrument No. 2000-346-08450, as well as Lot 1 of the Amended Plat of Lots 1 and 2 of the Amended Plat of Lots 1-10, Block 2, Ryker Addition to Kalispell, all according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana

ZONE: B-2, General Business

The applicant has applied to the City of Kalispell for a conditional use permit to allow the conversion of an existing hotel (Fairbridge Inn/Outlaw Convention Center) into a multi-family residential dwelling containing up to 250 studio units as a conditionally permitted use on property located at 1701 Highway 93 South within the B-2 (General Business) zone.

The Kalispell City Planning Board and Zoning Commission, after due and proper notice, on January 11, 2022, held a public hearing on the application, took public comment and recommended that the application be approved subject to 22 conditions.

After reviewing the application, the record, the Kalispell Planning Department report, and after duly considering the matter, the City Council of the City of Kalispell, pursuant to the Kalispell Zoning Ordinance, hereby adopts Kalispell Planning Department Conditional Use Report #KCU-21-12 as the Council's findings of fact, and issues and grants to the above-described real property a conditional use permit to allow the conversion of an existing hotel (Fairbridge Inn/Outlaw Convention Center) into a multi-family residential dwelling containing up to 250 studio units as a

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conditionally permitted use within the B-2 (General Business) zone, subject to the following conditions:

1. That commencement of the approved activity must begin within 18 months from the date of authorization or that a continuous good faith effort is made to bring the project to completion.
2. That the development of the site shall be in substantial conformance with the submitted application and architectural/site plan drawings.
3. Architectural renderings are required to be submitted to the Kalispell Architectural Review Committee for review and approval prior to issuance of a building permit for any new construction, additions, or other work which substantially changes the exterior appearance of the buildings.
4. To ensure the traffic flow and access comply with Kalispell Design and Construction Standards, as well as compliance with other site development standards, the development shall receive Site Review Committee approval prior to issuance of the building permit.
5. The parking lot shall be improved to an acceptable level of maintenance, including, but not necessarily limited to, repairing potholes, a new lift of asphalt/resurfacing, resealing, and restriping. Final design shall be submitted as part of the building permit and site review process.
6. To ensure the property is fully landscaped and is compatible with the surrounding neighborhood, a landscape plan shall be submitted along with the building permit. The landscape plan shall be in substantial compliance with the submitted application and approved by the Parks and Recreation Director prior to issuance of the building permit.
7. A minimum of 500 square feet of land per unit which has recreational value as determined by the Kalispell Parks and Recreation Director, or recreational amenities equivalent to the fair market value of 500 square feet of land, shall be provided.
8. The developer shall grant easements to the City for all public utility mains located on the property, which include water, sanitary sewer, and storm sewer.
9. Any existing and proposed water services, meters, backflow prevention, and sewer services shall meet current city standards and regulations.
10. The developer shall submit to the Kalispell Public Works Department for review and approval a storm water report and an engineered drainage plan that meets the requirements of the City of Kalispell Construction and Design Standards, including, but not necessarily limited to, addressing existing conditions related to the property along Third Avenue East and any requirement for additional storm water treatment related to parking lot maintenance.
11. The developer shall obtain an encroachment permit for the existing private force storm water main running from the north end of the property down Second Avenue East to approximately 13th Street East.

12. The developer shall submit water and sanitary sewer plans, applicable specifications, and design reports to the Kalispell Public Works Department with approval prior to construction of any new or changed water and/or sewer mains or services.
13. Prior to construction, the developer shall submit to the Kalispell Public Works Department an erosion/sediment control plan for review and approval, as well as a copy of all documents submitted to Montana Department of Environmental Quality for the General Permit for Storm Water Discharge Associated with Construction Activities.
14. An appropriate design to provide for emergency access from Second Avenue East/14<sup>th</sup> Street East shall be included as part of the final site design.
15. Through access on the private frontage road on the western portion of the property shall be preserved and appropriate maintenance shall be completed as part of the site improvements.
16. Prior to issuance of a building permit, a Traffic Impact Study (“TIS”) shall be prepared as part of the project, to be reviewed and approved by the Public Works Department. All recommendations in the TIS shall be implemented.
17. During the building permit and site review process, the final number of required parking spaces will be determined. The minimum number of parking spaces shall be provided and a final design for the parking lot shall be submitted for review and approval.
18. The development shall comply with the sign standards as set forth in Chapter 27.22 of the Kalispell Zoning Ordinance. Freestanding signs which are non-conforming shall either be brought into conformance or removed.
19. Additional fire hydrants shall be located as required by the Fire Chief. As part of the building permit review, the Fire Chief will determine appropriate requirements under the fire code addressing needed maintenance and building/fire code concerns. Fire sprinklers, alarms, and notification systems (both new and upgrades to current code for areas with existing system sprinklers/alarms/notification systems) will be required as part of the change of use and any upgrades to the water system to provide adequate fire flow shall be provided by the applicant.
20. The garbage enclosures shall be sized and placed in a location acceptable to the Kalispell Public Works Department.
21. The applicant shall install improvements on all portions of the property fronting a city street (Third Avenue East and Second Avenue East/14th Street East) as detailed in the Standards for Design and Construction. Improvements may include, but would not necessarily be limited to, installation of curb, gutter, storm drains, sidewalk, landscape boulevard and streetlights. Utilities in Third Avenue East that would conflict with the proposed sidewalk shall be moved to a location which meets current city standards. Review of the improvements would occur during the building permit and site review process.

22. Sidewalks connecting the front entrance of the buildings to the adjoining public sidewalks shall be installed. The sidewalks shall not interfere with other site design requirements and shall be elevated sidewalks where possible with appropriate ramps. When crossing through asphalt areas, the paths shall be concrete to differentiate the path from the driving lanes.

Dated this 7th day of February, 2022.

  
Mark Johnson  
Mayor

STATE OF MONTANA )  
: ss  
County of Flathead )

On this 7 day of February, 2022 before me, a Notary Public, personally appeared Mark Johnson, Mayor of the City of Kalispell, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same on behalf of the City of Kalispell.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal, the day and year first above written.

  
Aimee Brunckhorst  
Notary Public, State of Montana

